

ORIGINAL

50-H HEARING

- - - - - x

In the Matter of the Estate of

JACK FRANQUI IV,

Claimant,

-against-

THE COUNTY OF SUFFOLK, SUFFOLK COUNTY
POLICE DEPARTMENT, POLICE OFFICERS JOHN
AND JANE DOES 1-10,

Respondents.

- - - - - x

100 Veterans Memorial Highway
Hauppauge, New York

August 21, 2013
3:06 p.m.

EXAMINATION of JOHN BURKE, a Non-Party
Witness in the above-entitled action, held at
the above time and place, pursuant to Section
50-H of the General Municipal Law, taken
before Nicole Limoncelli, a shorthand reporter
and Notary Public within and for the State of
New York.



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2 A P P E A R A N C E S:

3 THE LAW OFFICES OF ANTHONY M. GRANDINETTE
4 Attorneys for Claimant and
5 John Burke
6 114 Old Country Road, Suite 420
7 Mineola, New York 11501

8 BY: ANTHONY M. GRANDINETTE, ESQ.

9

10 SUFFOLK COUNTY DEPARTMENT OF LAW
11 Attorneys for Respondents
12 100 Veterans Memorial Highway
13 Hauppauge, New York 11788

14 BY: ARLENE ZWILLING, ESQ.

15

16

17 ALSO PRESENT:

18 Mirel Fisch - The Law Office of Anthony M.
19 Grandinette

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1

2 J O H N B U R K E, the witness herein,
3 having been first duly sworn by a Notary
4 Public of the State of New York, was examined
5 and testified as follows:

6 EXAMINATION BY

7 MS. ZWILLING:

8 Q. State your name for the record,
9 please.

10 A. John Burke.

11 Q. State your address for the record,
12 please.

13 A. 95A Tuckahoe Road, Eastchester, New
14 York.

15 Q. Good afternoon, Mr. Burke.

16 A. Good afternoon, ma'am. How are you?

17 Q. I'm Arlene Zwilling, Assistant
18 County Attorney. I'm going to be conducting
19 a 50-H hearing today with respect to a Notice
20 of Claim filed by the family of Jack Franqui.
21 What that means is I'm going to be asking you
22 some questions about the events mentioned in
23 that Notice of Claim which I would like you
24 to answer.

25 A. Sure.



1 JOHN BURKE

2 Q. If for any reason you don't
3 understand one of my questions, let me know
4 that and I will rephrase the question so that
5 it is clear to you.

6 A. Okay.

7 Q. There's two things I would ask you
8 to keep in mind before we begin with the
9 questions. One is: Even if you think you
10 know what the question is going to be, allow
11 me to finish my question before you begin
12 your answer. It's the job of the court
13 reporter that you see here to take down
14 everything that's said in the room
15 accurately. If two people speak at the same
16 time, it makes it very difficult for her to
17 take down everything that's being said
18 accurately.

19 The other thing I would ask you to
20 keep in mind is that when you're responding
21 to question, please speak your answer instead
22 of just nodding your head yes or no?

23 A. Okay.

24 Q. The reporter can only take down
25 spoken words. She cannot obviously take down



1 JOHN BURKE

2 nods of the head.

3 A. Yes.

4 Q. Now, before we went on the record,
5 Mr. Grandinette indicated that he was
6 appearing for you and that we should send him
7 the transcript of your testimony for him to
8 forward to you.

9 A. Yes.

10 Q. That's agreeable to you?

11 A. Yes.

12 Q. Just so you know, what we do is:
13 Once the reporter prepares the transcript and
14 gets it to us, we do have the witness review
15 it. So we will forward it to
16 Mr. Grandinette, he will forward it to you,
17 and you will have an opportunity to review
18 it --

19 A. Okay.

20 Q. -- and sign it.

21 How did you learn of this hearing?

22 A. This -- the deposition?

23 Q. Yes.

24 A. I was contacted by Mr. Grandinette.

25 Q. When did Mr. Grandinette contact



1 JOHN BURKE

2 you?

3 A. This is a few weeks ago. After I
4 spoke to the ADA, I believe in the same
5 building, he mentioned a deposition would be
6 next, and now I was contacted by his office
7 saying that today is the date of the
8 deposition.

9 Q. You mentioned an ADA that you spoke
10 with. Who is the ADA?

11 A. I can't think of his name, and also
12 a Detective Lane (phonetic) was present at
13 this meeting. This was about three weeks ago
14 I would say, probably a little more. But the
15 ADA, I can't think of his name off the top of
16 my head.

17 Q. Where did this meeting take place?

18 A. I believe it was in this building,
19 the Dennison Building.

20 MS. ZWILLING: Mr. Grandinette,
21 are you --

22 MR. GRANDINETTE: Sure. I'll
23 provide that. By counsel, it was in
24 the DA's office in Hauppauge across
25 the street.



1 JOHN BURKE

2 THE WITNESS: Okay, across the
3 street.

4 MR. GRANDINETTE: I'll provide
5 you with the names of the Assistant
6 District Attorney and the detective.
7 His name was Detective Lane.

8 MS. ZWILLING: Is that a
9 Suffolk County Police Detective or
10 from some other agency?

11 MR. GRANDINETTE: Suffolk
12 County Detective employed by the
13 Suffolk County DA's office. To my
14 understanding, he's not a Suffolk
15 County police officer. He's a County
16 employee retained by the Suffolk
17 County DA's office.

18 MS. ZWILLING: You don't have
19 the ADA's name offhand?

20 MR. GRANDINETTE: ADA Todd
21 Pettigrew, P-E-T-T-I-G-R-E-W.

22 MS. ZWILLING: Thanks.

23 MR. GRANDINETTE: And it's
24 Directive Richard Lane.

25 MS. ZWILLING: Can we go off



1 JOHN BURKE

2 the record for a moment?

3 (Whereupon, a discussion was held
4 off the record.)

5 Q. Now, the meeting that you referred
6 to, was anyone present at the meeting other
7 than you, the ADA and the detective?

8 A. Yes. Anthony Grandinette, my
9 counsel, and also a Mr. Bobby Leak
10 (phonetic).

11 Q. Who is Bobby Leak?

12 A. He's employed by Mr. Grandinette.

13 Q. Had you requested this meeting?

14 A. No. I received a phone call from
15 Detective Lane about a week before that and
16 he requested that I meet with them. And then
17 I informed Mr. Grandinette's office and he
18 advised me that it would be good to have
19 counsel during this meeting.

20 Q. Now, how did Detective Lane contact
21 you?

22 A. He -- I'm on probation, so he
23 contacted my probation officer who's located
24 in Queens and left a message with her. Her
25 name is Officer Cantres, C-A-N-T-R-E-S, and



1 JOHN BURKE

2 she in turn contacted me.

3 Q. Had you ever had contact with
4 Detective Lane before?

5 A. Never before, no.

6 Q. Had you ever heard of his name
7 prior?

8 A. Never, no.

9 Q. When were you informed of Detective
10 Lane's contact by your probation officer?

11 A. I don't know. The date of the
12 meeting was -- it was about a week before the
13 date I called. The day my probation officer
14 let me know he called, I called him
15 immediately. Sometime in mid-July, I don't
16 know the exact date. But I called him and
17 spoke to him for about five to ten minutes,
18 and he requested that I meet with them,
19 himself and the ADA to go over what happened
20 that day.

21 Q. Meet with the probation officer?

22 A. No, meet with -- meet with Detective
23 Lane himself and the ADA Mr. Pettigrew,
24 whatever his -- so then I said okay, no
25 problem. I let Mr. Grandinette's know --



1 JOHN BURKE

2 Grandinette's office know, and then they
3 advised me that it would be a smart thing to
4 meet with them, but meet with them with
5 counsel.

6 Q. Did you pay Mr. Grandinette or his
7 office for going to the meeting with you that
8 day?

9 A. No, I did not.

10 Q. Have you been asked to pay?

11 A. No.

12 Q. Is it your understanding that you
13 need to pay for that service?

14 A. No, I have not been asked to pay.

15 Q. When for the first time did you have
16 contact with Mr. Grandinette or someone from
17 his office?

18 A. That would be back in -- I believe
19 that would be back in April sometime. When I
20 was released, I called Jack's father who,
21 also goes by the name of Jack, and I told him
22 what had happened and I said do with this
23 information as you will, gave him my
24 information. And he obtained counsel with
25 Mr. Grandinette and I came in with -- to tell



1 JOHN BURKE

2 my -- well, what happened, explain what
3 happened.

4 Q. You mentioned you called
5 Mr. Franqui's father when you were released.
6 What is the release you're talking about?

7 A. When I was released from jail in
8 Yaphank.

9 Q. Do you know when it was that you
10 were release from Yaphank?

11 A. I was released March 22nd.

12 Q. How long had you been in Yaphank
13 for?

14 A. I was there for six weeks. Prior to
15 that, two weeks in Riverhead.

16 Q. Now, before you met with Detective
17 Lane a few weeks ago, had you ever spoken
18 directly to him?

19 A. No, only -- no, before I spoke to
20 him when I got the message, I called him
21 immediately and I spoke to him I'd say for a
22 duration of about ten minutes on the phone.

23 Q. What did the two of you speak about
24 at that time?

25 A. He just basically wanted to know,



1 JOHN BURKE

2 you know, if I would meet with them and tell
3 my side, you know, what happened that day.
4 He said he wanted to get to the truth about
5 what happened, and like I said, I said okay,
6 no problem. And that was about it. It
7 wasn't really, you know -- he didn't go into
8 details what happened that day on the phone.
9 It was just basically I want to meet you,
10 we'll come in and meet you and so on and so
11 forth. I said okay, no problem, I'll be
12 willing to help in any way I can.

13 And then I advised Mr. Grandinette,
14 his office that they got in touch with me,
15 and then he said okay, it would be better if
16 you had some representation while you meet
17 them, so... So then we met obviously across
18 the street, I thought it was this building,
19 but across the street the following week.

20 Q. Now, when you had that first
21 conversation with Detective Lane, did you
22 discuss the incident at all that day?

23 A. No, I mean, obviously it was
24 discussed in, you know -- but it wasn't
25 discussed in detail. It was just, you know,



1 JOHN BURKE

2 obviously this is a tragic event, what
3 happened. And he basically said just come
4 in, tell the truth, tell what happened that
5 day, that's all we need you to do. And
6 that's what I did.

7 Q. Now --

8 A. That was -- the only time I spoke to
9 him was the day I returned his call.

10 Q. When for the first time did you
11 actually have direct contact with
12 Mr. Grandinette, either in person or by phone
13 or --

14 A. First time I had contact with him
15 was I believe when Jack Franqui, Sr. obtained
16 his counsel. I believe he left me a voice
17 mail saying that he wanted to talk to me,
18 which I didn't get back to. But the first
19 time I had any contact with him was that
20 first time I had met him, which I believe was
21 some time in April.

22 Q. Of this year?

23 A. Yes.

24 Q. How many times before today have you
25 met with Mr. Grandinette?



1 JOHN BURKE

2 A. I met with him that day and then I
3 met with him a few weeks ago when we had the
4 meeting with the ADA.

5 Q. Did he give you any papers to sign?

6 A. No, he did not.

7 Q. Did he take any written statements
8 from you?

9 A. Yes, he did, the initial meeting.

10 Q. How many statements were taken?

11 A. I don't know how many pages it was,
12 but it was two pages, two and a half pages,
13 two pages. I just told him what happened
14 that day, what transpired, and he wrote it
15 down as I spoke.

16 Q. Did you sign it?

17 A. I do not believe I did. I don't
18 think I did, no.

19 Q. Did you get a copy --

20 A. I could be wrong, but I don't think
21 I did.

22 Q. Did you get a copy of it?

23 A. I've seen it since, but I did not
24 get a copy. I mean, I know exactly what
25 happened. It's in my head. I know what I



1 JOHN BURKE

2 said.

3 MR. GRANDINETTE: I'll be more
4 than happy to mail you a copy. I
5 don't have a copy of the statement.

6 MS. ZWILLING: That's fine.
7 You can mail it to us.

8 Q. Were any of your discussions tape
9 recorded as far as you know?

10 A. No, they were not.

11 Q. What about when you met with
12 Detective Lane and the ADA, did they take any
13 statements or writings from you?

14 A. I don't believe I saw them writing.
15 What they were basically asking me was
16 questions that I gave on my original
17 statement, which I believe you have before
18 you, to the detectives that evening of the
19 incident. So I know they were just asking me
20 questions, but I don't recall -- I don't --
21 they didn't write -- they weren't writing
22 anything down.

23 Q. Did they have you sign anything?

24 A. They did not.

25 Q. Did they tape record any



1 JOHN BURKE

2 conversations you had with them to your
3 knowledge?

4 A. To my knowledge, no.

5 Q. Now, has Mr. Grandinette or his
6 office ever represented you in connection
7 with anything other than this matter?

8 A. No, ma'am.

9 Q. When and where were you born?

10 A. I was born December 1st, 1977 in
11 Stamford, Connecticut.

12 Q. How long have you lived at your
13 present address for?

14 A. Only a few months. It's temporary.

15 Q. When you call it temporary, is it
16 your intention to return to a somewhat
17 permanent residence?

18 A. No. I am currently without
19 permanent residence, so I am just kind of
20 staying with somebody. And before that, I
21 was staying in a men's shelter, to be honest
22 with you, in Manhattan. My apartment was
23 lost.

24 Q. Who is it that you're saying with
25 now?



1 JOHN BURKE

2 A. It's an uncle and aunt.

3 Q. From how long have you lived in the
4 State of New York for?

5 A. I moved to the State of New York in
6 1989 from Massachusetts. I was about
7 11 years old.

8 Q. How long have you lived on Long
9 Island for?

10 A. I lived in East Meadow from '89 till
11 about 2001. And then I lived -- I got an
12 apartment in Suffolk County, actually
13 Lindenhurst for about six months. Then from
14 there I moved to -- I moved to the Yonkers
15 area to a different apartment.

16 Q. Now, you mentioned a probation
17 officer. Are you currently still on
18 probation?

19 A. Yes, ma'am.

20 Q. How long is your probation?

21 A. Five years.

22 Q. How far into the five years are you
23 now?

24 A. I'm in my first year.

25 Q. For what charge are you on



1 JOHN BURKE

2 probation?

3 A. Well, my legal counsel told me to
4 take the Fifth Amendment on that. I'd rather
5 not discuss that.

6 MS. ZWILLING: On the charge
7 that he was convicted of? I'm not
8 going to ask him the particulars of
9 it. I just want to know what the
10 conviction was.

11 MR. GRANDINETTE: His defense
12 attorney requested that.

13 I don't see a problem with you
14 stating the nature of the charge
15 itself, but then you can invoke the
16 Fifth, but I don't want to --

17 MS. ZWILLING: I have no
18 intention of asking him about the
19 particulars of the charge. I just
20 want to know what the conviction was
21 for.

22 MR. GRANDINETTE: You want us
23 to just supply that to you?

24 MS. ZWILLING: Yes, but if he
25 could just tell me what charge he



1 JOHN BURKE

2 pled guilty to or got convicted of,

3 I'm going to move on from there.

4 That's the only information I need.

5 A. It's endangering the welfare of a

6 minor, a child. That was...

7 Q. Did you plead guilty or were you

8 convicted by the court?

9 A. I took a plea.

10 Q. In what court?

11 A. This was in Suffolk County Court.

12 Q. Do you know which court?

13 A. It was Judge Barbara Kahn

14 (phonetic). I guess it would be criminal

15 court.

16 Q. In Riverhead or Central Islip?

17 A. This was in Riverhead.

18 Q. Do you know when it was that you

19 gave the guilty plea?

20 A. It was about 11 days before my

21 release date, so that would make it March --

22 I think like March 11th.

23 Q. You're referring to your release

24 date from Yaphank?

25 A. That was -- yeah, my release date



1 JOHN BURKE

2 was March 22nd and I did my plea about
3 ten days before that. But I remember because
4 the lawyer said I had ten days to go to
5 complete my 60 days, so that must have been
6 about March 12th or March 11th.

7 Q. Since you seem to have the dates at
8 your fingertips, if you can trace out for me
9 how you came -- when and where you came into
10 custody and where you were until you were
11 released from Yaphank.

12 A. I was arrested on January 23rd by
13 Suffolk County detectives.

14 Q. Where were you arrested?

15 A. I was in Brooklyn, New York.

16 Q. Okay.

17 A. From there I was escorted to the 7th
18 Precinct in Shirley. Then later on that
19 night after the incident I was escorted to
20 another precinct. I'm not sure which one.

21 Q. Do you know where it was?

22 A. Somewhere in Suffolk, 20 minutes
23 away, but I'm not sure what precinct. Then
24 from there I went to Riverhead.

25 Q. When you say went to Riverhead,



1 JOHN BURKE

2 you're talking about the jail?

3 A. Yes.

4 Q. Okay.

5 A. I was there for about two weeks.

6 Then from there I was transferred to Yaphank
7 and I was there for six weeks.

8 Q. Now, what were the charges for which
9 you were arrested? I don't need to know the
10 particulars. I just want to know what you
11 were charged with at that time.

12 A. Well, I mentioned the charge.

13 Q. That was the same charge?

14 A. Yes.

15 Q. You were continuously in custody
16 from the time you were arrested until you
17 were released from Yaphank?

18 A. Yes, ma'am.

19 Q. Now, were you charged with any
20 parole violation in connection --

21 A. No.

22 Q. So you were being held purely on the
23 arrest charges?

24 A. Yeah, yeah.

25 Q. Are there any other criminal charges



1 JOHN BURKE

2 pending against you at this time?

3 A. No.

4 Q. Are there any open probation
5 violations against you?

6 A. No.

7 Q. Do you happen to know how it worked
8 out that you got a probation officer in
9 Queens instead of on Long Island?

10 A. Because I don't reside on Long
11 Island and I reside -- when I got out, I was
12 staying in Queens. So the judge, Judge Kahn
13 transferred my case to Queens.

14 Q. What was your address in Queens that
15 you were staying at at that time?

16 A. I believe it was 34-10 South Conduit
17 Avenue, Jamaica, Queens.

18 Q. When was the last time you were
19 staying there?

20 A. About -- I'd say about five weeks
21 ago.

22 Q. Was us your current marital status?

23 A. I'm single.

24 Q. Have you ever been married?

25 A. No, I have not.



1 JOHN BURKE

2 Q. Do you have any children?

3 A. No, I do not.

4 Q. How far did you go in school?

5 A. High school graduate.

6 Q. From where?

7 A. East Meadow High School, class of
8 '96. And a little bit of community college,
9 Nassau Community.

10 Q. Have you ever been convicted of
11 anything other than the charge that you just
12 mentioned?

13 A. I had a misdemeanor DWI about
14 ten years ago in 2003.

15 Q. Anything else?

16 A. That's it.

17 Q. Have you ever met Jack Franqui, Sr.
18 face to face?

19 A. Yes, I have.

20 Q. On how many occasions?

21 A. I'd say about four.

22 Q. What are the circumstances under
23 which you met him?

24 A. Well, I met him the first time when
25 he picked me up to go to see Mr. Grandinette



1 JOHN BURKE

2 for that initial meeting. I've seen him --
3 he was -- I met him when I was here for
4 meeting the ADA a few weeks ago. And then
5 one time he actually drove me out to court
6 for my case.

7 Q. That was for your own court
8 appearance?

9 A. Yeah. I was stuck for a ride and I
10 had to go out there, and I called him and he
11 was nice enough to drive me there and drive
12 me back, dropped me off at the train.

13 Q. Have you met any other members of
14 the family?

15 A. No, I have not.

16 Q. Have you ever met Earl Simon
17 (phonetic) or Simon Earl (phonetic) or
18 someone with a similar name?

19 A. My initial time at Mr. Grandinette's
20 office, I believe he was in the office. He
21 walked by me, but there was no pleasantries
22 exchanged or anything. I did not speak to
23 him.

24 Q. Do you know anything about him?

25 A. I know he was there when Jack was



1 JOHN BURKE

2 arrested. I know a little bit of the details
3 about that situation.

4 Q. How did you learn that?

5 A. I learned that through discussion
6 with Jack Franqui, Sr. He mentioned that to
7 me.

8 Q. Was there --

9 A. During -- well, I'm getting ahead of
10 myself, but during my conversation with Jack,
11 Jr. he mentioned for me to tell his father to
12 talk to Simon because Simon was there and he
13 knew what happened. So I knew of him from
14 Jack, Jr.

15 Q. Did Jack, Jr. ever tell you anything
16 about the events leading to his arrest?

17 A. He mentioned to me that he was
18 arrested for an expired inspection and, you
19 know, he was very upset. And he was saying
20 how -- how am I in jail for an expired
21 extension -- inspection, excuse me. That he
22 was telling me a few times to, you know, tell
23 my dad to talk to Simon, Simon was there,
24 Simon knows what happened, you know. He
25 mentioned that to me a few times, make sure



1 JOHN BURKE

2 to tell my dad to talk to Simon. So that's
3 when I first heard the name of Simon. I did
4 not know his last name.

5 So what was the initial question
6 again? I'm sorry.

7 MS. ZWILLING: Do you want to
8 read back the question?

9 (Whereupon, the record was read by
10 the reporter.)

11 A. Yeah. Well, again, yeah. He was
12 mentioning the expired inspection and then he
13 was going on about how the cops mistreated
14 him, how he was sore, and he kept on
15 mentioning how a female officer -- not by
16 name, just a female officer at the scene of
17 the arrest planted something on him, like
18 weed or something. And he was saying that
19 the cops were out for him, they were out for
20 me, they were out to get him.

21 I had no -- I never met him before
22 until that day, so I had no idea what he was
23 talking about or what he was referring to,
24 that the cops were out to get him and all
25 that. I mean, I do now know currently,



JOHN BURKE

presently about his previous run-in, but that's what he was talking about, what led to his arrest, that they were out to get him, that he had an expired inspection sticker, the charges were bogus, they were just out to get him and that they mistreated him during the time of the arrest physically.

Q. Now, you he mentioned the name Simon. Were there any other names he mentioned?

A. No other names, no. He mentioned Simon, and he was talking about his dog, how his dog was -- they -- the dog ran away or something like that. He was very upset about that. But as far as any names goes, Simon was the only name he mentioned during the arrest. Then the other person he spoke about was his father.

Q. Did he give you any details about how he said the police mistreated him?

A. He basically said they roughed him up, that they roughed him up during the arrest. Again, he kept on talking about how they were out to get him. They were out to



JOHN BURKE

1
2 get me, I shouldn't be here for an expired,
3 you know, inspection sticker, how am I in
4 jail for an inspection sticker, you know,
5 being expired. And he was just mentioning
6 how like during the arrest they kind of got
7 physical with him and they roughed him up and
8 they were out to get him, and this was during
9 the process of him yelling out for medical
10 attention which I'm sure you'll ask me about.
11 But that's what he mentioned about the
12 arrest.

13 Q. Can you --

14 A. He --

15 Q. I'm sorry.

16 A. Go ahead.

17 Q. You used the term roughed up. Did
18 he say they beat him, they hit him, they
19 kicked him? Did he give you any details of
20 that nature?

21 A. He said they -- he mentioned that
22 they roughed him up and that his -- he was
23 sore on his -- so, I mean... But I hear
24 someone say they got roughed up, obviously
25 it's physically. I mean, punching him or,



1

JOHN BURKE

2

you know, just being rough with him.

3

Q. Well, did he tell you exactly what he meant by that?

5

A. He said basically like they just roughed me up, they roughed me up, I'm hurting now, I'm sore. Whether he said now or not if he -- if they punched him or not, I don't recall if he said that. But he just said that they roughed him up, they mistreated him.

12

13

14

Q. Now, did he give you the name of the woman officer who he said planted something on him?

15

16

A. No, he did not. He just said a female officer. He did not give a name.

17

18

Q. Did he say what it was she planted on him?

19

20

21

22

23

24

25

A. He said it was marijuana, and he also said that she -- being that he was on probation, that she asked him when was the last time you smoked marijuana. Now, this is January 23rd and he said he answered January 9th. So then she said -- in response to that she said oh, good, it will still be



1

JOHN BURKE

2

in your system then, you know, this way

3

you'll get violated or, you know, but he

4

mentioned that. He was saying he had nothing

5

on him and that she planted something in his

6

right pocket.

7

Q. This is what he told you?

8

A. This is what he told me. He said

9

that over and over again.

10

Q. Did you ever talk to Simon or any

11

members of his family?

12

A. No, I have not.

13

MS. ZWILLING: Can you mark

14

that, please?

15

(Whereupon, a two-page handwritten

16

statement was marked as Respondents'

17

Exhibit A, for identification, as of

18

this date.)

19

Q. How did you get to this office

20

today?

21

A. I was picked up by Mr. Bobby Leak

22

who I previously mentioned who is employed by

23

Mr. Grandinette.

24

Q. Where did he pick you up from?

25

A. He picked me up from that address I



1 JOHN BURKE

2 gave you.

3 Q. I'm sorry. Which address?

4 A. 95A Tuckahoe Avenue.

5 Q. Can you just take a look at this
6 document that's been marked as Exhibit A?

7 A. Okay (perusing).

8 MR. GRANDINETTE: Do you happen
9 to have an extra copy of that?

10 MS. ZWILLING: I'll make you
11 one.

12 A. Yes, this is my statement.

13 Q. When you call it your statement, do
14 you know where you were when you gave this
15 statement?

16 A. I was in the 7th Precinct in Shirley
17 where the incident occurred.

18 Q. Do you know where in the 7th
19 Precinct you were?

20 A. I was out of the cell. They
21 transferred -- after this happened, they
22 transferred me to another cell across the
23 hallway. I believe it was the women's side
24 of the holding cells. And then two
25 detectives came and they put me into the



1 JOHN BURKE

2 interrogation room.

3 Q. Do you know who you gave the
4 statement to?

5 A. I do not know their names. I just
6 know -- physically I can describe them, but I
7 do not know their names. I can't really tell
8 by the signature at the bottom (perusing).

9 Q. If you look at the second page,
10 there seems to be a notary public stamp in
11 the name of Alfred Sitcoto (phonetic).

12 A. Notary public (perusing). Okay.

13 Q. Do you see that?

14 A. I do.

15 Q. Do you know if Mr. Sitcoto was one
16 of the detectives that was present?

17 A. I see a signature here, so I do
18 not -- I did not get their names, no.

19 Q. There were two detectives?

20 A. There were two detectives.

21 Q. They were both in plain clothes?

22 A. Yes, they were in suits.

23 Q. Did they identify themselves to you
24 at that --

25 A. Yeah, they had detectives -- they



1

JOHN BURKE

2

had their badges and, you know, they said

3

they were here to ask me questions about what

4

happened.

5

Q. You just don't recall their names?

6

A. I just don't recall their names.

7

Q. Did you speak with both of them?

8

A. Yes, they were both present. One

9

directive did the questioning and who -- the

10

detective who did the questioning also wrote

11

the statement as I was talking. The other

12

detective just sat there, you know, he wasn't

13

involved, but they were both present.

14

Q. Did you review the statement before

15

you signed it?

16

A. I believe I did very quickly

17

(perusing). I believe so. Yeah, I did. He

18

read it back to me and I signed it. You

19

know, this happened very shortly after

20

this -- this occurred, so my mind was of

21

kind, you know... I just saw someone commit

22

suicide in front of me, so I was a little,

23

you know... But I remember he did read it

24

back to me and I signed it.

25

Q. Would you mind spending a moment to



1

JOHN BURKE

2

read it now? Because I'm going to want to
ask you about its completeness and accuracy.

4

A. Do you want me to read it out loud
or?

6

Q. Read it to yourself.

7

A. (Witness perusing.) Yeah, I know.
I know exactly what happened here, so...

9

Q. Is the statement that's marked as
Exhibit A accurate to the best of your
recollection?

12

A. There's some timings here that I
think are not exactly correct, but as far as
the location of where he was and where I was
and what happened as far as what was said
between us is correct.

17

Q. Do you want to point out to me what
in the statement you feel is not correct?

19

A. It says today I arrived at the 7th
Precinct at 2:10 p.m. I was arrested at noon
that day and I believe I was there a little
before 2:10. And there's a part where it
says about 20 minutes later he hung himself
after they cut down -- after they cut down
the shirt. So that was --



1 JOHN BURKE

2 Q. Where in the statement are you now?

3 A. On the second page.

4 Q. If you could just point me to --

5 A. Second paragraph.

6 Q. Okay.

7 A. About 20 minutes later or a
8 half-hour later I heard this guy say that's
9 it. I believe that was -- I think that
10 was -- that was a longer time before between
11 them cutting down his T-shirt and walking out
12 than actually -- then he hung himself. I'd
13 say it was closer to about an hour.

14 Q. Let me make sure I understand this
15 correctly.

16 A. Forty-five minutes to an hour.

17 Q. You are saying that you think it was
18 closer to an hour between when the T-shirt
19 was cut down and Mr. Franqui hung himself?

20 A. Yeah, yeah. It wasn't 20 minutes.

21 Q. Did you notice that when you signed
22 the statement?

23 A. I did not. I didn't -- I noticed
24 this. I did mentioned this when I was
25 meeting with the ADA. So it's on record that



1 JOHN BURKE

2 I did mention that, this -- the time dispute
3 as well.

4 Q. Do you know what time you actually
5 arrived at the 7th Precinct?

6 A. Well, I was arrested on noon
7 exactly. I'd say I got there around -- I
8 mean, the time wouldn't be too far off, but
9 I'd say I got there around 1:30 to 2:00.

10 Q. Were you wearing a watch that day?

11 A. I was.

12 Q. Now, you were in a cell at some
13 point?

14 A. I was brought directly to the
15 rear -- to the rear of the precinct where all
16 the cells were.

17 Q. Were you put in the cell as soon as
18 you got there?

19 A. Yeah, when I got there and the
20 detective who brought me there, his name was
21 Detective Forestill (phonetic), he put me in
22 the rear. I was in cell three, Jack was in
23 cell one. And he had to go testify at some
24 court hearing for some other case. So he
25 said oh, I'll have you sign your confession,



1

JOHN BURKE

2

you know, when I come back later on. That

3

wasn't until the evening that he returned

4

when everything had already taken place.

5

Q. Now, when you were put in the cell,

6

were you still wearing your watch in the

7

cell?

8

A. I believe they took that off of me.

9

They did take it off of me.

10

Q. Did you have a cell phone or

11

anything else on you --

12

A. No.

13

Q. -- at that point that you could use

14

to tell time?

15

A. No, no. They confiscated

16

everything.

17

Q. Was there a clock that you could see

18

in the area so you would know what time it

19

was?

20

A. No, there was not.

21

Q. So would it be fair to say that when

22

you speak about times, these are estimates?

23

A. These are -- these are estimates,

24

yes. But there was a video. There is a tape

25

of this, so that will show the correct time



1

JOHN BURKE

2

that lapsed between the events that happened
3 that day.

4

Q. I understand what you're saying.

5

I'm just inquiring whether you had anything
6 to check the time against.

7

A. I did not, no.

8

Q. Now, you mentioned a video. Have
9 you seen this video?

10

A. I have not.

11

Q. How did you learn of this video?

12

A. Well, there were cameras looking
13 into each cell. Again, I was in cell three,
14 Jack was in cell one. There are cameras that
15 were directly across the hall looking into
16 each cell. They had a reflective mirror I'd
17 say about a foot wide. And I know because
18 when -- at one point Jack tied his T-shirt
19 to -- he took his T-shirt off and tied up his
20 T-shirt to the bars of the cell to make a
21 noose and he had it up there very quickly,
22 and the cop came running in and cut it down,
23 you know. So they saw him on the camera
24 doing this and they just cut it down and told
25 him to -- excuse my language, to cut the



JOHN BURKE

shit, you know, and just walked out.

Q. You mentioned that you had been brought into the precinct by a Detective Forestill who left?

A. Yes.

Q. Did you ever have further contact with him?

A. Later on that evening when he returned.

Q. What was your contact with him that evening?

A. Basically he came back after all this transpired and he had me sign my confession at that time. And then from there they transferred me -- he drove me personally in his car, I was in the passenger seat in cuffs, and he took me to another precinct that night. I don't know which precinct it was, but he took me to another precinct where I spent the night in.

Q. You mentioned you signed a confession. Was this a confession to the crime you had been charged with?

A. This was the crime that I was



1 JOHN BURKE

2 arrested for, yeah.

3 Q. Did you sign it voluntarily?

4 A. I signed it voluntarily, you know.

5 Again, I had -- I don't even really know what
6 I signed because I was still numb from what I
7 just went through.

8 Q. Now, you mentioned some sort of
9 reflective mirror?

10 A. Yes. Over each camera that was
11 looking into the -- each camera -- again,
12 each cell had a camera across the hall in the
13 corner there looking into each cell and a --
14 there was a reflective mirrored plate that
15 was over each camera. I'd say it was about a
16 foot wide.

17 Q. So there was one camera for each
18 cell?

19 A. For each cell.

20 Q. How many cells were there?

21 A. From my recollection, there was six.

22 Q. The reflective mirrors that you
23 mentioned, were they mounted directly above
24 the camera?

25 A. No, they were directly like over --



1 JOHN BURKE

2 over the cameras. It was like -- like a
3 shield, you know, but it was over the camera
4 itself.

5 Q. Were you able to tell what the
6 purpose of the reflecting mirrors were?

7 A. I don't know what the purpose of
8 that was.

9 Q. Was this like the kind of mirrors
10 that are sometimes used so you can see around
11 a corner or are you referring to --

12 A. No, I can see -- I can see the
13 camera behind it, but I was just -- but you
14 could see. Like it was so wide, just at the
15 angle that it was, you could see the
16 reflection. So I could see into Jack's cell
17 from that reflection.

18 Q. From the --

19 A. From the mirror that was -- from the
20 mirrored camera that was facing into my cell
21 I could see into -- the cell was here, here's
22 cell three and cell one was here and then
23 cell two between us (indicating). And then I
24 could see because it was so wide, the mirror,
25 you know, I could see like right into his



1 JOHN BURKE

2 cell and he could see into mine.

3 Q. If you looked at the mirror from in
4 your cell, were you able to see all of the
5 inside of his cell or just part of it?

6 A. I was able to see the entire -- the
7 entire front of his cell and into it a little
8 bit. And, I mean, I basically saw him
9 hanging there in that reflection when this --
10 when it happened.

11 MR. GRANDINETTE: If I may,
12 you're using the word mirror. Is it
13 a mirror or is a reflective glass
14 cover?

15 THE WITNESS: No, it's like a
16 Plexiglas cover I should say.

17 A. Yeah, maybe I'm using the wrong term
18 mirror there, but it was bright enough and
19 shiny enough though where I could see a
20 reflection. It was kind of like almost
21 slightly mirrored, but like -- what can I
22 say? Like if you see sunglasses that get a
23 little dark during the sun but you can still
24 see through, like it --

25 Q. Did it have some sort of reflective



1 JOHN BURKE

2 coating on it?

3 A. Yeah. I would say, yeah, yeah. But
4 you could still see through it. It wasn't --
5 it wasn't like one of those two-way mirrors
6 you would see in an interrogation room or
7 something like that where you couldn't see
8 through. It was just like dark. It was like
9 slightly tinted dark, dark enough where you
10 could still see the camera behind it and you
11 could still see the reflection, you know, of
12 whatever angle it was facing. It just
13 happened to be I could see right into Jack's
14 cell from -- from -- again, I was in cell
15 three, he was in cell one, so it was like the
16 perfect position. If I was in any cells
17 further down, I wouldn't have been -- I
18 wouldn't have been able to see.

19 Q. Were you able to see into any of the
20 other cells from your cell?

21 A. I can see into cell one and I
22 believe I could see into cell two.

23 Q. Were you able to see if there were
24 any people in that cell?

25 A. Yeah. There was no one in that



JOHN BURKE

cell, because when I first came in, I saw Jack and then cell two was empty because I looked, and then I was in cell three. And then there was, you know -- there was no one else in four, five or six.

Q. Were there ever any other prisoners in any of the cells the entire time you were there?

A. No, there was not.

Q. Just you and Jack?

A. Just me and Jack.

Q. Other than the two times that you've mentioned, is there anything else in your statement that's inaccurate?

A. There was one part when I remember reading (perusing). There's a part where I said -- on the second page about five lines up where it says I heard a loud bang, the guy said he hit his head against the wall, he said that it hurt. That came before he said that's it, because he did that when he put his T-shirt up and tied it into a noose, which, again, they'll show all of this on the tape, the cop came in, he cut it down and



1 JOHN BURKE

2 said, you know, cut it out.

3 I think he thought that they were
4 looking at him, so he wanted -- he was
5 screaming for medical attention this whole
6 time that I was in there with him, you know.
7 Originally a cop did come in and say, you
8 know, what are you yelling about, you know.
9 He said -- he was polite and courteous. He
10 said listen, I need medical attention, I need
11 medical attention, you know, and the officer
12 said well -- the officer's response was well,
13 if we bring you to a hospital, we're just
14 going to bring you right back, kind of like
15 what's the point, you know. And he asked can
16 I speak, you know -- please speak to your
17 sergeant, you know. And the cop said, okay,
18 I'll get my sergeant. And then he walked out
19 and he never came back with a sergeant.

20 So the next -- during this whole
21 process, Jack is screaming at the top of his
22 lungs I need medical attention, I need
23 medical attention, I'll be leaving here in a
24 body bag, you know, if you don't get me
25 medical attention. And he's screaming this



JOHN BURKE

1
2 at the top of his lungs several times, you
3 know. And I know that they could hear us
4 because I could hear them chitchatting
5 outside, you know, the police officers
6 talking to each other. So I mean, if I could
7 hear them talking a regular tone of voice, I
8 knew they heard him screaming his lungs out.

9 And so during the whole process of
10 me talking to him, he just kept on yelling
11 that out, I need medical attention, I'll be
12 leaving here in a body bag. And when I say
13 yelling, I mean he was howling, you know.
14 And so...

15 But going back to your initial
16 question, yeah, the part where he said --
17 where he bangs his head against the wall, he
18 did that after the officer cut his shirt down
19 because I believe that he thought they could
20 see him and he wanted to get some attention.
21 So he hit his head against the wall, he put
22 his head down the toilet, you know. And they
23 left him there shirtless because they take
24 his shirt away, they took the piece of the
25 blanket that I gave him away and they walked



JOHN BURKE

out after the T-shirt incident.

And that day -- that week was frigid in January, it was about 30 degrees out. And the back of that cell there was no heat. I mean, it felt like it was 25 degrees. And the word I used was inhumane because it was inhumane how cold it was there. So then he was sitting there upset and shirtless and just freezing. I mean, you could see your own breath, that's how cold it was. You know?

But, again, back to -- let me get off track here, back to your original question, yeah, that part is a little reversed, so...

Q. So what would be the proper order?

A. The proper order would be after he -- after he cut down the shirt, the officer that came in and the two guards that came in -- I'm sorry, the first time was one, one officer and then he just was -- said okay. They came in -- because they came in with the purpose knowing to cut down his shirt, so they obviously saw what he was



JOHN BURKE

doing. You know? They were like what are you doing, stop doing stupid shit was exactly what he said. And he cut it down with a knife and just walked out. They walked out. It was only one officer who spoke though.

So then a little -- a few minutes after that he said -- I heard like a loud bang and he hit his head against the wall. He told me -- I said what was that. He said I just hit my head against the wall, I know it hurt. He said -- then he said he was wet, so he said he put his head down the toilet. I think he thought they were watching, maybe they would -- if they saw him do this, he would get some medical attention. But in the meantime, he was screaming at the top of his lungs he needed medical -- I can't stress enough how persistent he was in yelling for help, you know, and saying like I'll leave here in a body bag if you don't get me medical attention.

In my opinion, once they saw what he did with the shirt, they should have done something then, you know. To leave him like



1 JOHN BURKE

2 that in that state, that environment that we
3 were in, how cold it was with no shirt, you
4 know, I just felt it wasn't right, but...

5 Q. If we could just get back on track.

6 A. Yeah, sure, sure.

7 Q. If you can give me the right order,
8 we'll get to the entire story.

9 A. Yeah, okay. Yeah, he was tying his
10 shirt and then -- and then after that was
11 when he hit his head against the wall when
12 they took his shirt away. He hit his head
13 against the wall, put his head down the
14 toilet. And then it was a while after that
15 when I heard him say that's it, and he took
16 his jeans and he hanged himself --

17 Q. Okay.

18 A. -- which, again, the tape will all
19 prove.

20 Q. Now, when you arrived in the cell
21 area, Jack was already in a cell?

22 A. Jack was already in cell one when I
23 was brought back to cell three, yes.

24 Q. You never met him or talked to him
25 before that day?



1 JOHN BURKE

2 A. Never met him in my life, no.

3 Q. You were put directly into cell
4 three?

5 A. Yes.

6 Q. What were you wearing when you were
7 put in the cell?

8 A. They made me take my sweater off,
9 made me take my shoes off, my belt. So I was
10 wearing jeans, socks and a T-shirt. And,
11 again, it was freezing that day, so I had
12 like -- like a -- there was a Styrofoam
13 yellow blanket they put in there. I was
14 sitting there, just covered up right away
15 because it was just that cold in there. And
16 then I ripped it up and gave him a piece
17 because he had nothing.

18 Q. So cells one, two and three were in
19 order next to each other --

20 A. Yeah.

21 Q. -- on the same wall?

22 A. If you walked in, one, two, three,
23 four, five, six were all on one side on the
24 right.

25 Q. So it's a single wall of cells?



1 JOHN BURKE

2 A. Yes.

3 Q. Is there some sort of catwalk
4 outside of the cellblock?

5 A. Yes.

6 Q. Now, was there any way you could see
7 out of the cell area?

8 A. See out of the cell area?

9 Q. Yes.

10 A. Yeah, I mean, there were bars, so I
11 could see out.

12 Q. I'm not talking about out of your
13 cell, but out of the cell area entirely.

14 A. Yeah, you could see someone, you
15 know. To the right I could see the door
16 coming in through that catwalk area, you
17 know. The metal door, I could see that. I
18 could even see like Jack's hands like when
19 they were around the bars or something like
20 that. But I could see inside the cell
21 through the reflection on the covering plate.

22 Q. Right. But could you see anything
23 outside of the cell area other than the door
24 you mentioned?

25 A. I could see the bars from the cells



1 JOHN BURKE

2 next to me, saw the entire catwalk, you know,
3 the entire walkway, again, the door and the
4 camera.

5 Q. Where was the door that you're
6 referring to?

7 A. The door was to our left. So I'm
8 standing here in the cell, there's a catwalk,
9 the door was to the left (indicating).

10 Q. If you're standing facing the bars,
11 the catwalk --

12 A. If I'm standing facing the bars, the
13 door was on the left.

14 Q. If you're standing facing the bars,
15 which way was cell number one?

16 A. Cell number one was to my left.

17 Q. Now, was this door open?

18 A. No.

19 Q. Do you know what was on the other
20 side of the door?

21 A. That's the area where we put -- or
22 where my shoes were and my sweater and my
23 belt. And then when I was walked in there, I
24 saw another pile of clothes which was Jack's
25 stuff because he and I were the only two back



1

JOHN BURKE

2 there.

3 Q. Now, at some point after you were
4 put in the cell, you and Jack started
5 talking?

6 A. Yeah, pretty much immediately, you
7 know.

8 Q. Who started the conversation?

9 A. Jack did.

10 Q. Do you recall what he said to start
11 the conversation?

12 A. He said what's up, man. I remember
13 him kind of making a joke. He's like -- he's
14 like I'm sorry you got arrested for whatever
15 you got arrested for, but he's like I'm kind
16 of glad you did though because now I have
17 some company, you know. And then he was --
18 then he started talking about how, you know,
19 they arrested me, they put me here because I
20 have an expired inspection sticker and
21 they're out to get me.

22 And then he kept on going on about
23 how this female officer planted something in
24 his pocket and how they're out to get him
25 and, you know, they have like a, you know --



JOHN BURKE

they have a mission to get him, you know. They're out to get me, they're out to get me, I wasn't doing anything wrong, I just had an expired inspection sticker, they planted this on me, you know, they're out to get me. Of course, I'm just sitting there. I just get in, so I'm just listening at this point. And they chased away his dog, he was upset about that. And, you know, he was just going on about that. And then he started, you know -- he started -- he kept on -- he kept on referring -- he repeated himself a lot and he kept on referring, you know -- referring to the fact that he was, you know -- he was doing nothing wrong, he had an expired inspection, why am I sitting in jail for an inspection. He's like I can't go back and do more time. And then he started like yelling for -- I medical attention, I need medical attention. He was yelling.

Q. Let's --

A. Yeah.

Q. We're going to cover all of this.

A. That's where the conversation went,



1

JOHN BURKE

2

yeah.

3

Q. I just wanted to know how the
4 consideration started.

5

A. Yeah, yeah.

6

7

Q. Now, were you able to see his face
at any point?

8

9

A. Through the -- through the
reflection and then also when I walked in.

10

11

12

Q. Now, at any point during your
conversation, did he sound like he might have
had some alcohol or drugs in his system?

13

14

A. He didn't sound like that at all.
He was very courteous, very polite.

15

16

17

18

19

20

21

22

23

24

25

Q. How was his mood?

A. He was upset. He was, you know,
scared, upset. I mean, I found out after the
fact that he was on probation and, you know,
what was going on. But at certain times
during the conversation he broke down crying.
And when the first officer walked in when he
was yelling and screaming and yelling and
screaming and the guy walked in and said
what's going on, what are you yelling and
screaming about or, you know, what are you



1 JOHN BURKE

2 going on about, you know, he kind of had an
3 attitude towards him, you know.

4 He, too, was very polite with the
5 officer. Sir, please, I need medical
6 attention, I need medical attention, I, you
7 know -- please, please help me, you know.
8 And that's when the officer replied well, if
9 we take you to a hospital, we'll just, you
10 know -- we'll just end up bring you back
11 right here.

12 Q. You mentioned that at some point
13 during your conversation he was crying. Was
14 there anything in particular that seemed to
15 cause him to cry?

16 A. He was crying because he -- the two
17 things I remember is, one, because of his
18 dog. He was upset that they chased his dog
19 away, he was very upset about that. And two
20 was because he kept on saying like he can't
21 do any more time, how he just did this time.
22 And then he's like I can't, you know -- tell
23 my father I can't do this time, I can't do
24 it.

25 And then eventually he started



1 JOHN BURKE

2 talking about hanging up, you know, I'm going
3 to hang up. And then he started mentioning
4 his father's phone number and, you know, he
5 asked me to remember that number, please call
6 my father. And I don't want to go too far
7 ahead because I'm answering your questions.

8 Q. When he told you those things, did
9 you believe -- did it seem to you that he was
10 serious about hurting himself?

11 A. You know, at the point I just, you
12 know, I got my own things going right there,
13 so I'm just listening. And at the point I
14 think, you know, alright, this guy's upset,
15 you know, he just got arrested or whatever,
16 you know, he's not happy about it obviously.
17 And, you know, I didn't know, maybe he's
18 serious, maybe he's not, maybe he's just, you
19 know, talking out of frustration. I don't
20 think anything. Just calm down, you know,
21 see what happens, you know. And, again, I
22 was just arrested, so I was like I got my own
23 problems. You know what I mean?

24 Q. Did his hanging himself take you by
25 surprise?



JOHN BURKE

A. Of course. Because, I mean, he was talking about it and he made it sound like he was going to do it and in the back of my mind I'm thinking -- I'm thinking alright, he won't do it, you know. And, you know, after the T-shirt incident I thought they would get him some care or do something, you know, once he showed signs that he was, you know, making a noose out of a shirt.

So it -- when he did do it, of course it was shocking. I mean, you witness something like that, it's not like an everyday thing. So yeah, I was shocked. But again, he was pleading out for help for hours and hours and hours, you know, so what, you know -- it could have been avoided.

Q. How long did Jack talk about the circumstances of his arrest for?

A. I couldn't give you specifics on that, but he talked about it more in the beginning, I guess, when we first started talking, but he kept on going on about it. And, you know, during the conversation like intermittently he would tell me oh, they



1 JOHN BURKE

2 can't, you know -- how can they have me in
3 jail for this, they're out to get me, the
4 same things over and over again. Then he
5 would say I need medical attention. He would
6 just yell. So he kept on like breaking up
7 the conversation with just yelling, you know.

8 Q. Did you ask anyone at any point to
9 get him medical attention?

10 A. I did not, no. I didn't get
11 involved, to be honest with you. When the
12 cop first came and said what are you going on
13 about, and he was pleading his case, you
14 know, and the cop said okay, I'll go get the
15 sergeant, because that's what Jack asked, I
16 figured okay, they'll do whatever they got to
17 do here, you know.

18 Q. How long were you in the cell before
19 an officer came back in to check on what was
20 taking place?

21 MR. GRANDINETTE: Is that
22 question from initially when he
23 first --

24 MS. ZWILLING: Yes, from when
25 he gets into the cell, yes.



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JOHN BURKE

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A. When I first got in the cell, I'd say maybe half an hour, close to that.

4

Q. Do you know who the officer was?

5

A. I can describe him physically. But it could be half an hour, an hour. Again, you know, I didn't have a watch or anything.

8

Q. I understand.

9

A. Again, the tape with show it all. But I could describe him, but I don't know his name.

12

Q. Sure, sure. If you could describe him, that would be great.

14

A. He was kind of -- in uniform, kind of heavyset or barrel-chested, short haircut or maybe balding. I can see him from my cell because I can see from the angle when he walked in. He kind of said what are you going on about. He's talking to Jack, and Jack is asking him politely for medical attention, this, that and the other. At one point Jack said let me talk to your sergeant, please. And the officer said okay, I'll get him. And then he left and never came back.

25

Q. Had Jack up to that point told you



1 JOHN BURKE

2 what it was he wanted medical attention for?

3 A. Well, he said that, again, he was
4 roughed up. And he just kept on saying --
5 like he was screaming to them if you don't
6 get me medical attention, I'm going to leave
7 here in a body bag. I mean, he screamed
8 that. Again, I can't emphasize, he screamed
9 that several, several times.

10 Q. Who did he say that to?

11 A. He was just yelling out for the cops
12 to hear him.

13 Q. When the officer came in --

14 A. Yeah.

15 Q. -- to check that first time, what
16 exactly did Jack say to him in terms of
17 requesting medical care?

18 A. He said I need -- I need medical
19 attention, something to the effect that he
20 was sore and they roughed him up. Again, he
21 wasn't -- when the officer was, he was
22 speaking -- he wasn't yelling and screaming.
23 He was very courteous and, you know,
24 respectful. Please, sir, I need medical
25 attention, I need it, you've got to bring me



JOHN BURKE

to the hospital, I need medical attention, I need medical attention. And the officer just replied, you know, if we bring you to the hospital, we'll just end up bringing you back here, you know, sarcastically. So then Jack said please, let me speak to your sergeant, you know. And that's when the officer -- yeah.

Q. Just talking about that conversation, did Jack ask for any psychiatric care at that time?

A. No.

Q. Did he ever ask for psychiatric care?

A. He was just screaming I need medical attention.

Q. So he didn't ask for psychiatric care in particular?

A. Not that I can recall, no.

Q. During that conversation when the officer first came in, did Jack say anything that you interpreted as a threat to harm himself or kill himself?

A. Well, he said, you know, I need



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JOHN BURKE

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medical attention, I need medical attention

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and I'm going to be leaving here in a body

4

bag, so I mean...

5

Q. He said that when the first officer

6

came in?

7

A. I believe he did, but not screaming

8

that time because the cop was right there in

9

front of him. But, again, they heard him

10

saying this because he was screaming it so

11

many times.

12

Q. After that officer left, did you

13

have a further conversation with --

14

A. Yeah, I talked to him.

15

Q. Had he started to calm down at that

16

point?

17

A. He was -- yeah, he was. Like when

18

he talked to me, it was just in a normal

19

tone. He wasn't, you know, screaming or

20

yelling at me. And he apologized to me for

21

yelling. He said I'm sorry for yelling and

22

screaming, making all this mess, but, you

23

know, this isn't right, what's going on with

24

me.

25

And then -- and then he kept on



JOHN BURKE

telling me his father's phone number, and he said 839-0676, you know. And he was telling me -- then like five minutes would go by and he'd ask me what's that number. And I'd repeat, da, da, da, ba, ba, ba, you know. So I -- he's like alright, good. He's like please call my dad and tell him that I love him and tell him what happened here, you know.

And at this time I'm thinking alright, he's just talking, you know, he's full of hot air, you know, he's not really going to do anything. And he kept on going on, what's the number, ba, ba, ba. And then intermittently he would start yelling and screaming again, I need medical attention, I'll be leaving here in a body bag if you don't get me medical attention.

Q. Was it your impression that he was just threatening at that time and would not carry it out?

MR. GRANDINETTE: I'm going to object, but -- as an opinion.

But answer the question.



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JOHN BURKE

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A. Yeah, I don't know, to be honest with you. I mean, the fact that he gave me his father's number and all that, it had me concerned, you know. And especially when that T-shirt incident happened, what happened afterwards, I was very concerned then. And then when they saw that on the tape and they came in and they cut it down, I figured okay, they'll do something now.

Q. Let's just back up a bit so we can proceed with the chronology.

A. Yeah, sure.

Q. You mentioned the officer came in, they had a conversation. He said he would get the sergeant and then he left.

A. Then he left.

Q. How long passed until a police officer returned to the cell area?

A. It was after -- it was when he was tying his T-shirt to the bars was the next time the cop came, two cops came in.

Q. The officer that came in the first time, was he one of those two officers?

A. I believe he was, but I could be



1 JOHN BURKE

2 wrong on that. I mean, obviously the other
3 guy wasn't, but it was either the same kind
4 of guy with the same build. Again, I don't
5 know any names or anything. I just saw them,
6 they come in, they say you're doing stupid
7 stuff, cut the S, and then cut down the
8 shirt. And, again, as they were they -- he
9 was still pleading his case to get medical
10 attention.

11 Q. What was he saying at that time?

12 A. He was like I need to go to the
13 hospital, I need to get medical attention, I
14 need to, you know -- I need go to the
15 hospital, I need medical attention, please,
16 sir, please, officers, please, you know, let
17 me talk to your sergeant. And they basically
18 were in and out very quickly. They just cut
19 the shirt down, yeah, whatever, and they
20 walked out. So they didn't really engage in
21 conversation with him that second time.

22 Q. What did he do or say after they cut
23 the shirt down and left?

24 A. Well, they left and then it was
25 after that that he was still screaming and



JOHN BURKE

yelling, still making sure I knew his father's number. And then he started to apologize to me -- well, then he -- I heard a loud thump and he hit his head against the wall.

And then I heard like water and then he's like oh, man, I'm all wet. And, you know, again, he's freezing. By this time he's shirtless left in the cell, and I can't stress enough how cold it was back there. It was inhumane cold back there. There was no heat. And he said oh, I dumped my head in the toilet, you know.

So I think he was trying to get attention, you know, seeing they saw him on the camera with his shirt, maybe they'll see him doing this trying to hurt himself and, you know, doing this and they'll come back and they'll finally bring him to the hospital or bring him -- get him the medical attention that he wanted.

Q. So after -- I'm sorry. Did you hear him bang his head?

A. I just heard a loud -- like a, you



JOHN BURKE

know, like a -- like loud (indicating).

Q. Were you able to see him banging his head?

A. I didn't see him, but I could -- you know that thump. And I said what are you doing and he said oh, I just banged my head against the wall, it hurts, man. I said what are you crazy, what are you nuts. And it was hard, too. I mean, he banged his head hard. Then after that, like I heard swirling of water and then he said I'm all wet. I'm like what are you doing. He's like I just put my head in the toilet.

So I think he was just trying to get attention, you know. I think he said -- I think he figured like once they saw him with the shirt they would see him would do this, and, again to repeat myself, that he would get the attention that he wanted.

Q. What do you recall the next thing happening after he told that when he had put his head in the toilet?

A. He was cold because he was there shirtless. He was shivering. He started



1 JOHN BURKE

2 talking again about his dog and about his
3 dad. At one point he told me -- he's like
4 listen, please, tell my dad you can have my
5 boat, you know. I guess he had a boat. So
6 he's like, you know, tell my dad I gave you
7 the boat, you can go, you know, you can go
8 fishing, it's a 12-foot boat or whatever, you
9 know.

10 And he was talking, you know, I was
11 trying to tell hey, calm down, calm down,
12 take it easy, maybe they'll let you go
13 tomorrow, you know, just take it easy. I
14 thought I was going to be getting through to
15 him. And he was cold and he was cold. And I
16 was like hey, man, I think they put the heat
17 on or something like that, just saying that
18 to kind of, you know, get him to -- then he
19 started talking about his dog and he started
20 sobbing again and crying, very upset.

21 And then it got quiet, you know, for
22 a while. And eventually I heard him say
23 that's it. And then I heard like the
24 ruffling of clothes, and I knew all he had at
25 that point was his jeans. They took his



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JOHN BURKE

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shirt, he had no blanket. And I hear him

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like tying it up and stuff like that, you

4

know. Him saying that's it were like the

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last words he said. So then I hear -- if you

6

want me to go on?

7

Q. Please.

8

A. Yeah. Then I hear like a -- tying

9

it up and stuff like that. I figure -- I

10

figure -- I can see the reflection in the

11

mirror and I can figure alright, he's got his

12

jeans, he's doing the same thing with the

13

jeans that he was doing with the shirt. So I

14

figured okay, they'll probably come running

15

in here, you know. So I kind of stayed, you

16

know -- I was like Jack, Jack, you know, but

17

I kind of stayed quiet.

18

The next thing I know I hear like

19

this -- I don't know how to describe this --

20

this like noise against the metal bars. It

21

was like this hollow ringing. And I could

22

see in the mirror and I could see like his

23

back facing the bars because he tied it

24

against the bars. And I heard like gasping

25

for air and stuff like that, shaking, I



1 JOHN BURKE

2 heard, you know, that gasping. I was
3 thinking oh, my God, this guy is really doing
4 this. And I'm screaming Jack, Jack, Jack,
5 you know, like cut this out, what are you
6 kidding me, cut this out. Got no response.

7 And then I still hear the gasping
8 for air and eventually it just went quiet.
9 And I just -- I'm looking at -- I could see
10 what he was doing, and I'm screaming guard,
11 guard, guard. I'm looking at my camera and
12 I'm pointing like to my left saying, you
13 know, this guy just -- is hurting himself. I
14 was hoping that maybe he was just acting or
15 whatever and I was hoping they'd come running
16 in any second since they saw that thing with
17 the T-shirt.

18 I'm like okay, they'll be here any
19 second, they'll save him. And the next thing
20 I know he was hanging there for what seemed
21 like five to ten minutes.

22 Q. How --

23 A. And --

24 Q. I'm sorry.

25 A. Go ahead.



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JOHN BURKE

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Q. How long a time do you estimate passed between when you first heard him tying the jeans to the bars until you heard what sounded like the noises of the hanging?

A. I would say he was very quick about it. Once he made up his mind that was it, you know. He was -- the minute -- once he was done tying those jeans, he did what he had to do. So it wasn't very -- it wasn't delayed, you know. He didn't have the jeans hanging there for a while, for half an hour or 20 minutes. It was like right away.

Q. How long a period of time do you believe passed between when you heard the gasping and when the officers came in?

A. I'd say it was about -- definitely over five minutes because I remember screaming and screaming and screaming guards -- now I'm screaming, guards, guards, you know. And, again, I'm looking at the camera as I'm screaming and I'm like pointing this way, you know, towards Jack's cell which would be towards the left (indicating). And I'm screaming, you know, and I'm pointing and



1 JOHN BURKE

2 going this guy, you know, and nothing,
3 nothing. It got to the point where I just
4 gave up and I was just standing there just in
5 shock. Like I could hear his bones cracking
6 and stuff, you know.

7 Even before that, you know, he
8 apologized to me. He said, John, listen, I'm
9 going use the bathroom because I know -- he's
10 like I've heard that when people hang
11 themselves they, you know, shit themselves
12 and urinate and lose control of their, you
13 know, facilities. And he's like, you know,
14 I'm going to use the bathroom to try to empty
15 myself out or whatever, you know, before I do
16 this. I'm like come on man, just take it
17 easy, you know, relax, see what happens
18 tomorrow. And then he went ahead and he did
19 it.

20 And, again, he was just hanging
21 there for what seems definitely five to
22 ten minutes. It was an eternity, as you can
23 imagine. And then I'm screaming and yelling.
24 I eventually just gave up because no one was
25 coming. You'll see on the recording, you



JOHN BURKE

know, how it all went down.

And then finally I hear boots running and, you know, boots running. I can tell, okay, finally they saw what's going on. Now -- I'm like what's the point now, you know, I'm thinking to myself. And before they opened the door -- because there's no window on the door. It's a steel door. Before they opened the door I heard one cop say to the other you have a knife, and they were coming -- they knew what they were walking in on, you know.

They weren't just coming to do some random check. They obviously finally looked at the camera, saw this guy hanging there and they hauled ass down the hallway, you know, down to get into the area, you know. So they come bursting in and open up the cell and cut him down. And I hear one say to the other check for a pulse. And then I hear no pulse, he's dead.

Q. Were you ever able to observe any physical injuries on Jack?

A. That I was not able to do, no, just



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JOHN BURKE

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his -- telling me that he was roughed up and

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that he was sore and he was roughed up, he

4

was mistreated and then, again, him banging

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his head against the wall and him putting his

6

head down the toilet, which he did. And,

7

again, I sound like a broken record, but the

8

tape will reveal that.

9

Q. I'm just asking if you personally

10

saw physical injuries on him.

11

A. But I -- no, I did not. Personally

12

I did not, you know. I mean, I saw him

13

hanging there.

14

Q. Right. I just want to know if you

15

saw bruises or cuts or bumps.

16

A. No, I wasn't in a position to see

17

that, no.

18

Q. What were you able to see the

19

officers do after they came in?

20

A. Well, they came in -- again, I'm

21

standing there in shock. So, you know, they

22

came in and they opened up the cell and --

23

Q. How many came in?

24

A. Two.

25

Q. Had you seen those officers before?



1 JOHN BURKE

2 A. You know, this was -- I would say
3 this was about 5:00 or so, so I mean, it
4 was -- it might have been a different shift.
5 And again, you got to understand, I'm in a
6 state of shock right now, so I'm kind of --
7 don't really -- it could have been one of the
8 same guys who came in earlier, but I can't be
9 100 percent sure about that.

10 Q. Okay.

11 A. But the two came in and then
12 eventually everybody came in, and one plain
13 clothes officer was -- I don't know if he was
14 off duty or just got off duty. He was
15 standing like outside my cell just like
16 looking in shock. And then eventually they
17 got me, and as I walked out, they had like a
18 sheet above, you know -- above the cell so I
19 couldn't see Jack's body or anything.

20 Q. How long after the officers entered
21 were you taken out of the area?

22 A. I'd say about five minutes. At
23 first I don't think they even really paid
24 attention to me, you know. They were too
25 busy doing what they were doing with him.



1 JOHN BURKE

2 Q. What exactly were they doing with
3 him?

4 A. Well, I mean, they were checking his
5 pulse and they were shocked that this
6 happened. And there was no -- there was no
7 pulse and I just heard no pulse. And they
8 were just quiet basically.

9 Q. Was anyone trying to render first
10 aid at that time?

11 A. No, I didn't -- I don't believe so,
12 because when I was walked out a few minutes
13 later, they had a sheet covered up in the
14 front of the cell so I couldn't see him. But
15 I didn't hear any first aid or CPR. It was
16 just there was no pulse. They didn't try to
17 render first aid.

18 Q. Where were you taken initially when
19 you were taken out of that area?

20 A. They brought me to what I believe
21 was the women's holding cell area which was
22 basically like across the hall, you know,
23 outside that door.

24 Q. On the other side of the door?

25 A. Yeah.



1 JOHN BURKE

2 Q. So you couldn't see --

3 A. No, I couldn't see, yeah.

4 Q. Could you hear anything?

5 A. Just, you know, like shit or, you
6 know, damn it. You know what I mean? That
7 kind of deal, you know. I think the cops
8 were in shock, too. Like they couldn't
9 believe he was actually -- that he actually
10 did this. You know? So that was it.

11 And then I was placed over in that
12 cell. I couldn't tell you how long I was
13 there because, again, I'm just numb at what I
14 just saw. And the next thing I know I was
15 being questioned by two homicide detectives.

16 Q. Are those the detectives --

17 A. The detectives I gave the statement
18 to, yes.

19 Q. Did you see anyone remove Jack from
20 the precinct?

21 A. No, I did not see that.

22 Q. Did you see --

23 A. I couldn't see from -- even from
24 where I was in the cell, I couldn't see from
25 that --



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JOHN BURKE

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Q. I take it there were no windows or anything in there?

4

5

6

7

A. No, no. So I don't know, you know. Obviously the detectives came and were taking photos or whatever they had to do or whatever protocol is.

8

9

10

11

Q. You did not see that, did you?

A. I didn't see that. They just came and they checked out the scene and then they came to talk to me.

12

13

Q. Did you remain -- you were transferred to another precinct?

14

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A. I was transferred to another precinct. I couldn't tell you which one it was. So obviously I guess they wanted -- after I gave my statement, they put me back in the cell or whatever. Not too long after that, the original Detective Forestill who brought me there came back, you know, and that's when he had me sign my confession. And then basically he then drove me to another precinct, but I couldn't tell you which one it was, and I spent the night there.



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JOHN BURKE

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Q. Did you ask to be taken out of that precinct?

4

5

6

A. I didn't ask to be taken, no. They just -- I guess they thought this was good to have me taken out of there.

7

8

Q. Did you object to being taken?

A. No, I didn't say anything.

9

10

Q. Would it be fair to say you wanted to get out of there?

11

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A. Again, at that point I was numb, so I -- it didn't really matter different. I knew what happened, he was dead, so, you know. I guess they thought it best just to transfer me to another -- I guess they were doing their crime scene that entire night anyway, so I'm sure it was a probably a few hours before they even removed the body, you know, or however that works.

20

21

22

23

Q. Other than the meeting you had with Detective Lane and the ADA last week, have you spoken with anyone from the police department about this matter?

24

25

A. Between when I was interviewed that evening by the detectives and then I was



JOHN BURKE

transferred to the other precinct, the following morning I was in Riverhead, then Yaphank, no one questioned me, any -- nobody questioned me about this until when I got out. I called Jack's father the day I got out, told him what had happened, because I went online and I saw how they just reported that he hung himself, there was no signs of trouble or no warning signs, and I was angered by that. I said how could they do this?

So I called -- I was going to call his dad regardless just because I promised his son I would call him, and just to do the right thing I called his dad. I said this is what really happened, because I remembered that number, you know. I didn't want to call while I was locked up.

So I had told him what had happened and the reports in the news were false. And I said you do with this information as you will, here's my name, here's my number, you know. If you're going take action I will be there to support you because your son seemed



1 JOHN BURKE

2 like a nice guy, I got to know him for a
3 couple hours. And I just felt like what
4 happened wasn't right. You know?

5 Q. You mentioned that you saw false
6 reports in the news. Where were these false
7 reports?

8 A. I saw them on the Internet. I went
9 to Google because I figured something like
10 this would be reported, and I typed in -- I
11 think I typed in like 7th Precinct suicide,
12 Suffolk County and I -- sure enough, I got
13 results.

14 Q. Were these articles on Newsday or
15 some other --

16 A. I think one of them might have been.
17 Yeah, I think one of them was Newsday, and I
18 couldn't recall the other ones, but the -- I
19 think they might have been -- they could have
20 been all Newsday, but basically each one
21 basically said that he gave no signs of
22 suicide and he gave no warning signs and, you
23 know, everything was calm and smooth.

24 I think -- one thing I read,
25 Detective Fitzpatrick (phonetic) I think it



JOHN BURKE

might have been or Cop Fitzpatrick even said like oh, yeah, he was fine, he was calm, there was no problem, you know, there was no signs of this at all, you know. And when I read that I was like, you know, that's ridiculous, that's not the case. You know, at that time I had no idea what the parents knew or what his father knew or whatever, I just picked up the phone and I called, you know. For two months I sat on that phone call, you know, because I didn't want to make that call while I was, you know, locked up.

And I called his father and told him, you know, listen, this is what happened, your son was yelling for help for hours and demonstrating signs that he was going to hurt himself, you know. And I told his father what happened on the phone and I just said do with this as you must, you know, as you want to, I'm just letting you know. And then he, you know, took some legal action which I don't blame him.

MS. ZWILLING: Mr. Grandinette, has anyone -- have you been in touch



1 JOHN BURKE

2 with anyone from Internal Affairs
3 about this?

4 MR. GRANDINETTE: No.

5 MS. ZWILLING: Have they asked
6 for interviews or anything like that?

7 MR. GRANDINETTE: Is this off
8 the record?

9 MS. ZWILLING: We can have it
10 off the record, sure.

11 (Whereupon, a discussion was held
12 off the record.)

13 MS. ZWILLING: Thank you for
14 coming in. I have no further
15 questions.

16 THE WITNESS: Thank you.

17 (Time noted: 4:23 p.m.)

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